



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,042	05/14/2001	David A. Solin	149-0161US	8654
29855 7590 10/16/2007 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			EXAMINER ROBINSON, GRETA LEE	
			ART UNIT 2168	PAPER NUMBER
			MAIL DATE 10/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/855,042	SOLIN, DAVID A.	
	Examiner	Art Unit	
	Greta L. Robinson	2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 and 9-21 is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☒ Claim(s) 6-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 2-7 and 9-21 are pending in the present application.

Response to Arguments

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicant's arguments, see Pre-Appeal Request, filed July 17, 2007, with respect to the rejection(s) of claim(s) 2-7 and 9-21 under 35 USC 101 and 35 USC 112 second paragraph have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Segal et al. Dynamic Program Updating in a Distributed Computer System and Neogi US Patent 6,650,620 B1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. Dynamic Program Updating in a Distributed Computer System in view of Neogi US Patent 6,650,620 B1.

Regarding claim 5, **Segal et al.** teaches a method of updating a computer system [note: "We present an approach to dynamically update a computer system" abstract], the method comprising:

requesting, on occurrence of a first event, a first set of update information in a first request responsive to a list, the first set of update information being for a first set of information, the list comprising at least one identifier of the first set of information and at least one identifier of a second set of information [note: "Software-based service-oriented approaches attack the problem by imposing a server/client relationship on the programs they can update [4,5]. In such an approach, a number of clients request a service from a server via some well defined mechanism such as an operating system primitive or remote procedure call" see page 198 section two];

receiving the first set of update information responsive to the first request [note: page 199 updating nomenclature];

updating the first set of information on the computer system by modifying the first set of information responsive to at least the first set of update information received in the first request [note: pages 199-200 sections 3.3-3.4 criteria for updating a procedure and justification for updating criteria (i.e. procedure may be defined)];

requesting, on occurrence of a second event following the first event, a second set of update information for the first set of information in a second request [note: pages 199-200 sections 3.3-3.4 note details to implement algorithm]; and

requesting, at least after the occurrence of the first event, a third set of update information for the second set of information in a third request, wherein the second

request is made before the third request is made [note: page 199-200 sections 3.3-3.4 details to implement algorithm]. Although Segal teaches the invention substantially as cited above, they do not explicitly teach requesting in response to a list. Neogi teaches requesting includes capturing a client service requests which includes a routing directive based on a resource status synchronization table (i.e. a list) [see: abstract; Figure 3; col. 3 line 64 through col. 4 line 34]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Neogi with Segal et al. because the status synchronization table provides a means of accessing requests for update.

Allowable Subject Matter

5. Claims 2-4 and 9-21 are allowed.
6. Claims 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Lambert et al. US Patent 6,549,919 B2

Murmamtsu et al. US Patent 5,129,093

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greta Robinson
Primary Examiner
October 12, 2007